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U.S.D.C. - Rome

OCT 29 2004

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ROME DIVISION

WILLIE AND PRISCILLA WOMBLE, )

Plaintiffs, )

vs. )

NATIONAL CITY HOME LOAN )  
SERVICES, INC., f/k/a ALTEGRA )  
CREDIT COMPANY; AMERICA'S )  
SERVICING COMPANY; HSBC )  
BANK USA, as trustee for )  
CITIGROUP MORTGAGE LOAN )  
TRUST, INC., and DOES ONE TO 20, )

Defendants. )  
\_\_\_\_\_ )

CIVIL ACTION FILE

NO. 4:04-CV-271-ELAY

**NOTICE OF REMOVAL OF CIVIL ACTION FROM THE  
SUPERIOR COURT OF WALKER COUNTY, GEORGIA**

COMES NOW, HSBC BANK USA, (hereinafter "HSBC"), as Trustee, on both its own behalf and on behalf of CITIGROUP MORTGAGE LOAN TRUST, INC. (hereinafter "CitiGroup"), the named Defendants in the above-styled civil action, by and through their undersigned counsel, and files this Notice of Removal, pursuant to 28 U.S.C. §§ 1441 and 1446, of that certain action known as *Willie and Priscilla Womble*

ORIGINAL

*vs. National City Home Loan Services, Inc., f/k/a Altegra Credit Company; America's Servicing Company; HSBC Bank USA, as trustee for Citigroup Mortgage Loan Trust, Inc.; and Does One to 20*, Civil Action Number 04CV64912, from the Superior Court of Walker County, Georgia to this Court, respectfully showing the Court as follows:

1.

HSBC and CitiGroup are named Defendants in that certain civil action identifiable as *Willie and Priscilla Womble vs. National City Home Loan Services, Inc., f/k/a Altegra Credit Company; America's Servicing Company; HSBC Bank USA, as trustee for Citigroup Mortgage Loan Trust, Inc.; and Does One to 20*, Civil Action Number 04CV64912, brought in the Superior Court of Walker County, Georgia (hereinafter, the "civil action"). HSBC and CitiGroup give notice that the civil action is an action governed by federal law and is hereby removed to this Court pursuant to HSBC's and CitiGroup's respective right of removal under 28 U.S.C. §§ 1441 *et seq.*

2.

HSBC and CitiGroup were served a copy of the Complaint on or about September 30, 2004. A true and accurate copy of all pleadings served to date upon HSBC and CitiGroup are collectively attached hereto as Exhibit "A".

3.

HSBC, as trustee for CitiGroup, is a chartered National Bank, with a principal place of business located at One HSBC Center, Buffalo, NY 14203.

4.

Plaintiffs are permanent resident citizens of the State of Georgia and reside within this judicial district and division. Plaintiffs have not, upon information and belief, at any time pertinent to the Complaint been citizens of New York. This action, therefore, in addition to being removed based on federal question jurisdiction, is also a controversy between citizens of different States for purposes of invoking the original jurisdiction of the federal district courts pursuant to 28 U.S.C. § 1332.

5.

Plaintiffs' Complaint asserts claims alleging that HSBC and CitiGroup, respectively, violated, *inter alia*, the Truth in Lending Act, 15 U.S.C. §§ 1601 *et seq.* ("TILA"), and the Real Estate Settlement Procedures Act, 12 U.S.C. §§ 2601 *et seq.* ("RESPA"). This action, therefore, involves questions of federal law over which this Court has concurrent jurisdiction pursuant to 28 U.S.C. § 1331, and it is thus removable by the Defendants pursuant to 28 U.S.C. §§ 1441 and 1446.

6.

Plaintiffs appear to seek rescission or cancellation of the transaction which is the subject of their Complaint and, as such, the amount in controversy herein exceeds the sum or value of SEVENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$75,000.00), exclusive of interest and costs, within the meaning of 28 U.S.C. § 1332, for purposes of conferring subject matter jurisdiction of federal district courts over the subject action.

7.

This Court has supplemental jurisdiction over the Plaintiffs' state law claims pursuant to 28 U.S.C. § 1367(a).

8.

This Notice of Removal is being filed in accordance with 28 U.S.C. § 1446 and Federal Rule of Civil Procedure 81(c). In compliance with 28 U.S.C. § 1446(d), HSBC and CitiGroup are, contemporaneously herewith, by and through their undersigned counsel, filing a copy of this Notice of Removal with the Clerk of the Superior Court of Walker County, Georgia. A true and accurate copy of the notice filed with the Clerk of the Superior Court of Walker County, Georgia is attached hereto as Exhibit "B".

9.

As evidenced on the attached Certificate of Service, written notice of the filing of this Notice of Removal has been given to the Plaintiffs as required by law.

10.

Counsel for the Defendants HSBC Bank USA, as Trustee, and CitiGroup hereby certifies that this Notice of Removal is signed pursuant to Federal Rule of Civil Procedure 11.

11.

Venue is proper in this Court for purposes of removal under 28 U.S.C. § 1446(a), but not necessarily for purposes of 28 U.S.C. § 1391 or any other applicable venue provision. By filing this Notice of Removal, HSBC and CitiGroup do not waive any of their respective jurisdictional objections or affirmative defenses.

WHEREFORE, Defendants/Petitioners HSBC BANK USA and CITIGROUP MORTGAGE LOAN TRUST, INC. request that this civil action proceed in this Court as an action properly removed, and that no further proceedings be had in said case in the Superior Court of Walker County, Georgia.

This 29 day of October, 2004.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter L. Lublin", is written over a horizontal line.

PETER L. LUBLIN

(Georgia State Bar No. 460461)

MATTHEW W. DOMINICK

(Georgia State Bar No. 225325)

ATTORNEYS FOR DEFENDANTS

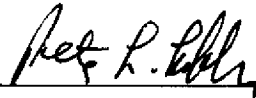
HSBC BANK USA and CITIGROUP  
MORTGAGE LOAN TRUST, INC.

McCALLA, RAYMER, PADRICK,  
COBB, NICHOLS & CLARK, LLC  
1544 Old Alabama Road  
Roswell, Georgia 30076-2102  
(770) 643-7200 (Telephone)  
(770) 643-7242 (Facsimile)

**FONT CERTIFICATION**

The undersigned counsel for Defendants HSBC Bank USA, individually and as trustee for CitiGroup Mortgage Loan Trust, Inc., hereby certifies that the within and foregoing Notice of Removal of Civil Action from the Superior Court of Walker County, Georgia, was prepared using Book Antigua 13-point font in accordance with LR 5.1(B).

This 29 of October, 2004.



PETER L. LUBLIN

(Georgia State Bar No. 460461)

ATTORNEY FOR DEFENDANTS

HSBC BANK USA and CITIGROUP  
MORTGAGE LOAN TRUST, INC.

McCALLA, RAYMER, PADRICK,  
COBB, NICHOLS & CLARK, LLC  
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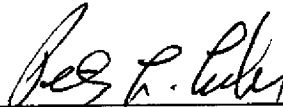
**CERTIFICATE OF SERVICE**

I hereby certify that I have this 29 day of October, 2004, served the Plaintiffs, *pro se*, in this matter the within and foregoing **NOTICE OF FILING NOTICE OF REMOVAL IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA, ROME DIVISION** by placing a true and correct copy of same in the United States Mail, with first-class prepaid postage affixed thereto, properly addressed as follows:

Willie and Priscilla Womble  
5787 Highway 151  
Lafayette, GA 30728

National City Home Loan Services, Inc.  
F/k/a Altegra Credit Company  
C/o CT Corporation System  
1201 Peachtree Street  
Atlanta, GA 30361

America's Servicing Company  
7495 New Horizon Way  
Frederick, MD 21703



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PETER L. LUBLIN  
Georgia State Bar No. 460461  
ATTORNEY FOR DEFENDANTS  
HSBC BANK USA and CITIGROUP MORTGAGE  
LOAN TRUST, INC.

McCALLA, RAYMER, PADRICK,  
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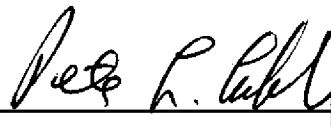
**CERTIFICATE OF SERVICE**

I hereby certify that I have this 29 day of October, 2004, served the Plaintiffs in this matter the within and foregoing Defendants HSBC Bank USA and CitiGroup Mortgage Loan Trust, Inc. **NOTICE OF REMOVAL OF CIVIL ACTION FROM THE SUPERIOR COURT OF WALKER COUNTY, GEORGIA** by placing a true and correct copy of same in the United States Mail, with prepaid first-class postage affixed thereto, properly addressed as follows:

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